



Agenda of the National City Planning Commission

Meeting of July 18, 2022 – 6:00 p.m.

ONLINE ONLY MEETING

<https://www.nationalcityca.gov/webcast>

LIVE WEBCAST

Council Chambers, Civic Center

1243 National City Boulevard

National City, CA 91950

NOTICE: The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak remains our top priority. The City of National City is coordinating with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). **The World Health Organization has declared the outbreak a global pandemic and local and state emergencies have been declared providing reprieve from certain public meeting laws such as the Brown Act.**

As a result, the National City Planning Commission Meeting will occur only online to ensure the safety of City residents, employees and the communities we serve. A live webcast of the meeting may be viewed on the city's website at <http://nationalcityca.new.swagit.com/views/33>.

PUBLIC COMMENTS: There are multiple ways you can make sure your opinions are heard and considered by our Planning Commission as outlined below:

Submit your public comment prior to the meeting: To submit a comment in writing, email plcpubcomment@nationalcityca.gov and provide the agenda item number and title of the item in the subject line of your email. **Public comments or testimony is limited to up to three (3) minutes.**

If the comment is not related to a specific agenda item, indicate General Public Comment in the subject line. All email comments received by 4:00 p.m. on the day of the meeting will be read into the record at the Planning Commission meeting and retained as part of the official record. All comments will be available on the City website within 48 hours following the meeting.

Register online and participate in live public comment during the meeting: To provide live public comment during the meeting, you must pre-register on the City's website at <https://www.nationalcityca.gov/government/community-development/planning/public-comment> by 4:00 p.m. on the day of the meeting to join the National City and Planning Commission Meeting.

*****Please note that you do not need to pre-register to watch the meeting online, but you must pre-register if you wish to speak.**

Once registered, you will receive an email with a link from Zoom to join the live meeting. You can participate by phone or by computer. Please allow yourself time to log into Zoom before the start of the meeting to ensure you do not encounter any last-minute technical difficulties.

*****Please note that members of the public will not be shown on video; they will be able to watch and listen and speak when called upon.**

Public microphones will be muted until it is your turn to comment. Each speaker is allowed up to three (3) minutes to address the Planning Commission. Please be aware that the Chair may limit the comments' length due to the number of persons wishing to speak or if comments become repetitious or unrelated. All comments are subject to the same rules as would otherwise govern speaker comments at the meeting. Speakers are asked to be respectful and courteous. Please address your comments to the Planning Commission as a whole and avoid personal attacks against members of the public, Planning Commissioners, and City staff.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the Planning Department at (619) 336-4310 to request a disability-related modification or accommodation. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Welcome to the National City Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

Roll Call

Pledge of Allegiance by Chair Yamane

Approval of Minutes

1. Approval of Minutes from the Meeting of June 6, 2022

Approval of Agenda

2. Approval of the Agenda for the Meeting on July 18, 2022

ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).

NOTE: Under State law, items requiring Planning Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.

PRESENTATIONS

CONTINUED PUBLIC HEARINGS

PUBLIC HEARINGS

3. Resolution taking action on a Conditional Use Permit for the operation of a tobacco specialty business located at 120 National City Boulevard (Case File No: 2022-14 CUP)

4. Resolution taking action on a Conditional Use Permit modification for the addition of live entertainment and modified hours of operation at an existing Public Market (Market on 8th) located at 41 East 8th Street. (Case File No: 2022-18 CUP)

OTHER BUSINESS

STAFF REPORTS

City Attorney's Office

Director of Community Development

Planning Manager

Commissioners

Chairperson

ADJOURNMENT

Adjournment to the regularly scheduled meeting on August 1, 2022 at 6:00 p.m.



Planning Commission Minutes

Planning Commission Meeting
Meeting of June 6, 2022
ONLINE ONLY MEETING - LIVE WEBCAST
<https://www.nationalcityca.gov/webcast>
Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950

These minutes have been abbreviated. Video recordings of the full proceedings are on file and available to the public.

Agenda Items

The meeting was called to order by Chair Yamane at 6:03 p.m.

Roll Call

Pledge of Allegiance by Chair Yamane

Commissioners Present: Yamane, Natividad, Sanchez, Valenzuela, Sendt, Miller

Commissioners Absent: Castle

Staff Also Present: Director of Public Works/City Engineer Roberto Yano, Planning Manager Martin Reeder, and Interim Deputy City Attorney Elizabeth Mitchell.

1. Approval of Minutes from the Meeting of April 18, 2022.

Motion by Natividad, second by Miller to approve the Minutes for the Meeting of April 18, 2022.

Motion carried by the following vote:

Ayes: Yamane, Natividad, Sanchez, Sendt, Miller

Abstain: Valenzuela

Noes: None

Absent: Castle

Motion approved.

2. Approval of the Agenda for the Meeting on June 6, 2022.

Motion by Natividad, second by Valenzuela to approve the Agenda for the Meeting on June 6, 2022.

Motion carried by the following vote:

Ayes: Yamane, Natividad, Sanchez, Valenzuela, Sendt, Miller

Abstain: None

Noes: None

Absent: Castle

Motion approved.

ORAL COMMUNICATION: Cynthia Fuller Quinonez – building permit assistance.

PRESENTATIONS: None.

CONTINUED PUBLIC HEARINGS: None.

PUBLIC HEARINGS: None.

OTHER BUSINESS:

3. Fiscal Year 2022-2023 Capital Improvement Program – General Plan Conformity Review

Presented by Director of Public Works/City Engineer Roberto Yano. Mr. Yano answered questions posed by the Commissioners.

Motion by Valenzuela, second by Natividad to recommend that the 2022-2023 Capital Improvement Program is in conformance with the General Plan.

Ayes: Yamane, Natividad, Sanchez, Valenzuela, Sendt, Miller

Abstain: None

Noes: None

Absent: Castle

Motion approved.

STAFF REPORTS:

Interim Deputy City Attorney: Elizabeth Mitchell introduced herself as Deputy City Attorney Torres' replacement in her absence.

COMMISSIONER REPORTS:

Sanchez: Inquired on status of in-person Planning Commission meetings.

Miller: Reminded people to vote.

Yamane: Community Breakfast on Saturday, June 11, 2022. Vote.

There were no other Commissioner reports.

ADJOURNMENT by Chair Yamane at 6:42 p.m. to the meeting of July 18, 2022.

CHAIRPERSON

The foregoing minutes were approved at the Regular Meeting of July 18, 2022.



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR THE OPERATION OF A TOBACCO SPECIALTY BUSINESS LOCATED AT 120 NATIONAL CITY BLVD.

Case File No.: 2022-14 CUP

Location: West side of the 100 block of National City Boulevard

Assessor's Parcel Nos.: 555-020-14

Staff report by: David Welch – Associate Planner

Applicant: Mr. V Smoke Shop

Zoning designation: Downtown Specific Plan / Development Zone 1A

Adjacent use and zoning:

North: Barber shop / Development Zone 1A

East: Auto paint and body across National City Blvd. / Development Zone 2

South: Vacant commercial suite / Development Zone 1A

West: Fire safety equipment sales and residential across alley / Development Zone 1A

Environmental review: Not a project per California Environmental Quality Act (CEQA) as defined in Section 15378

Staff recommendation: Approve

Staff Recommendation

Staff recommends approval of the request to operate a tobacco specialty business, subject to the attached recommended conditions. A tobacco specialty business is a conditionally-allowed use within Development Zone 1A of the Downtown Specific Plan.

Executive Summary

The property has an existing commercial building with two suites. The suite addressed 120 National City Boulevard has been vacant with the most recent use a drug addiction non-profit. The new tenant (Mr. V Smoke Shop) proposes to operate a tobacco specialty business that sells imported and domestic cigars and cigar smoking paraphernalia. Proposed hours of operation are 10:00 a.m. to 10:30 p.m. daily.

Site Characteristics

The project site is a suite within a small existing commercial building along National City Boulevard. The property is approximately 6,098 square feet in size. The suite is approximately 896 square feet in size and occupies half of the building, with the remaining space currently vacant. The area is mostly commercial in nature, with a few residences located on the same block as the proposed use.

Proposed Use

The applicant is proposing to sell tobacco products and paraphernalia in an existing 896 square-foot commercial retail suite. Proposed operation hours are 10:00 a.m. to 10:30 p.m. daily.

Analysis

Section 18.30.230 of the Land Use Code (LUC) allows for tobacco specialty businesses with an approved Conditional Use Permit (CUP). Additional requirements for a tobacco specialty business CUP include distance requirements, a restriction on the selling of alcohol or food, and a restriction on allowing minors on the premises without a parent or legal guardian.

As of 2016, the U.S. Food and Drug Administration (FDA) has regulatory authority over cigars and all other tobacco products. The FDA states that “cigars are not a safe alternative to cigarettes and cigar smoke is at least as toxic as

cigarette smoke, if not more.” Furthermore, the FDA has proposed product standards prohibiting flavored cigars to prevent youth initiation¹.

While this business proposes to primarily sell cigars, electronic cigarettes and similar products could also be sold under a CUP for a tobacco specialty business. The health effects of these products are a concern to the FDA due to the exposure to the risks of tobacco-related disease and death. In addition, safety problems have been reported including overheating, fires, and explosions, lung injuries, and seizure and other neurological symptoms. “A drastic increase in youth use of e-cigarette products in recent years” has led the FDA to increase prevention efforts.²

The Health and Environmental Justice (HEJ) element of the National City General Plan states that the rates of asthma and chronic obstructive pulmonary disease (COPD) are higher in the 91950 zip code than the rest of San Diego County. These diseases are tied to environmental air quality with risk factors stemming from both outdoor air pollution and cigarette smoke. One goal and one policy from the HEJ element are related to air quality and tobacco usage:

Goal HEJ-2: Improved air quality to protect human and environmental health and minimized air quality impacts on sensitive population groups.

Policy HEJ-2.8: Encourage smoke-free workplaces, multi-family housing, parks, and other outdoor gathering places to reduce exposure to second-hand smoke.

The above goal and policy do not specifically address the sale of tobacco or tobacco-related products. However, they are intended to reduce exposure of the public to the harmful effects of poor air quality and smoking. Conditions of approval are proposed to reduce this risk with restrictions related to products and advertising that may lead to youth initiation such as e-cigarettes and flavored cigars.

¹ U.S. Food & Drug Administration website (<https://www.fda.gov/tobacco-products/products-ingredients-components/cigars-cigarillos-little-filtered-cigars#:~:text=.FDA%20Regulation%20of%20Cigars,sale%2C%20and%20distribution%20of%20cigars.>)

² U.S. Food and Drug Administration website (<https://www.fda.gov/tobacco-products/products-ingredients-components/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends#Are%20You%20Looking%20for%20General%20Health%20Information%20about%20ENDS%20Products?>)

Land Use – A tobacco specialty business is defined as any business the primary use of which is the use and/or sale of tobacco products or paraphernalia. At least 40% of the floor area must be dedicated to the sale of these items to be considered this use. The proposed business is requesting retail sales of these items in excess of 40% of the floor area. The subject property is located within the Downtown Specific Plan in Development Zone 1A. A commercial business, including retail sales, is a permitted use in this zone.

Additional Requirements – Section 18.030.230 of the LUC requires a one thousand-foot distance from any school, playground, recreation center or facility, childcare center, or library in the City. No such land uses are within one thousand feet of the subject property. The applicant proposes to only sell to clients 21 years old or older. No alcohol or food sales are proposed for this business. Conditions of approval placing restrictions on the age of customers and prohibiting the sale of alcohol and food are attached.

Mailing – All property owners and occupants within a distance of 300 feet are required to be notified of a public hearing for CUP applications. Notice of this public hearing was sent to 86 occupants and owners.

Department Comments

Comments were received from the Building Division and Fire Department. These comments are related to physical improvements of the commercial suite and have been included as conditions of approval. The applicant has not proposed any commercial tenant improvements for the property at this time. In addition, the Institute for Public Strategies stated they have no comments.

Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is permitted within Development Zone 1A of the Downtown Specific Plan pursuant to a CUP and the proposed use meets the required standards in the Land Use Code for a tobacco specialty business, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Tobacco specialty businesses are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. Commercial businesses are a permitted use in Development Zone 1A of the Downtown Specific Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The site has sufficient access to streets and highways that are adequate in width and pavement type of traffic generated by the proposed use, since National City Boulevard is classified as an arterial street in the Circulation Element, and the use will be within an existing retail suite and thus is not expected to result in an appreciable increase in traffic.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use will not have an adverse effect upon adjacent or abutting properties, since the proposed retail use is compatible with nearby businesses; and since the proposed use will be subject to conditions that limit the sale and display of tobacco products and/or electronic cigarettes to minors.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The project is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in Development Zone 1A.

Finding for Denial

Due to the health risks of tobacco usage, there is also a finding for denial as follows:

1. The proposed use is not deemed essential and desirable to the public convenience and welfare, since the proposed use for the sale and display of tobacco products and paraphernalia may lead to more people trying the products, which are known to cause disease and lead to premature death.

Conditions of Approval

Standard Conditions of Approval have been included with this permit as well as conditions specific to the operation of a tobacco specialty business.

CEQA

The project is not subject to CEQA as the proposal involves a retail use on a commercial-zoned property which allows retail uses by right. No physical or environmental impacts would occur as a result of approval of this application.

Summary

A tobacco specialty store is a retail use, permitted with the issuance of a CUP in Development Zone 1A of the Downtown Specific Plan. Concerns related to advertising and sales to minors or of incidental drug use are addressed by Conditions of Approval. The business would also be required to comply with all applicable federal government regulations.

Options

1. Approve 2022-14 CUP subject to the conditions listed within, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2022-14 CUP based on the attached finding or findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings for Approval/Denial
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2022-14 CUP, dated 2/22/2022)
5. Public Hearing Notice (Sent to 86 property owners & occupants)
6. Resolutions

David Welch

DAVID WELCH
Associate Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

2022-14 CUP – Mr. V Smoke Shop

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within Development Zone 1A of the Downtown Specific Plan pursuant to a CUP and the proposed use meets the required standards in the Land Use Code for a tobacco specialty business, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because tobacco specialty businesses are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. Commercial businesses are a permitted use in Development Zone 1A of the Downtown Specific Plan.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the site has sufficient access to streets and highways that are adequate in width and pavement type of traffic generated by the proposed use, since National City Boulevard is classified as an arterial street in the Circulation Element, and the use will be within an existing retail suite and thus is not expected to result in an appreciable increase in traffic.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use will not have an adverse effect upon adjacent or abutting properties, since the proposed retail use is compatible with nearby businesses; and since the proposed use will be subject to conditions that limit the sale and display of tobacco products and/or electronic cigarettes to minors.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA,

as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in Development Zone 1A.

RECOMMENDED FINDING FOR DENIAL

2022-14 CUP – Mr. V Smoke Shop

1. The proposed use is not deemed essential and desirable to the public convenience and welfare, since the proposed use for the sale and display of tobacco products and paraphernalia may lead to more people trying the products, which are known to cause disease and lead to premature death.

RECOMMENDED CONDITIONS OF APPROVAL

2022-14 CUP – Mr. V Smoke Shop

General

1. This Conditional Use Permit authorizes the sale tobacco and tobacco related products and paraphernalia at a retail store (Mr. V Smoke Shop) located at 120 National City Blvd. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-14 CUP, dated 2/22/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Building

6. Building plans and permits shall be required to meet the 2019 California Building, Mechanical, Electrical, Plumbing, Accessibility, Green, Energy and Fire Codes if submitted prior to the end of the City working calendar year.

Fire

7. Project shall be designed to code.
8. The National City Fire Department utilizes all current codes and ordinances. Currently, we are using the 2019 editions of NFPA, CFC, and the current edition of the CCR.

9. No smoking shall be allowed inside of business at any time, per California law.
10. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

Planning

11. No tobacco sales are permitted until the applicant has been issued a Cigarette and Tobacco Products Retailer's License from the California Department of Tax and Fee Administration.
12. The sale of tobacco and tobacco related products and paraphernalia shall only be permitted between the hours of 10:00 a.m. and 10:30 p.m. daily.
13. The business shall not permit persons under the age of 21 to be on the premises.
14. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.
15. Excepting business identification signage, exterior advertising and signs of all types, promoting or indicating the availability of electronic cigarettes (e-cigarettes), personal vaporizers (PV), or electronic nicotine delivery systems (ENDS), collectively known as electronic cigarettes, flavored tobacco products, or traditional tobacco products, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of electronic cigarettes, flavored tobacco products and signs, which are clearly visible to the exterior, shall constitute a violation of this condition
16. No sales of tobacco products, electronic cigarettes, personal vaporizers, or any other electronic or non-electronic nicotine delivery systems are permitted to minors.
17. No alcohol or food may be sold on the premises.
18. No products containing tetrahydrocannabinol (THC), or any other cannabinoid, may be sold on the premises.
19. No employee of the business may smoke within 20 feet of the main entrance.
20. The business shall comply with all requirements of the U.S. Food and Drug Administration (FDA) related to electronic cigarettes (e-cigarettes), personal vaporizers (PV), electronic nicotine delivery systems (ENDS), or any tobacco or tobacco-related products sold at the store.

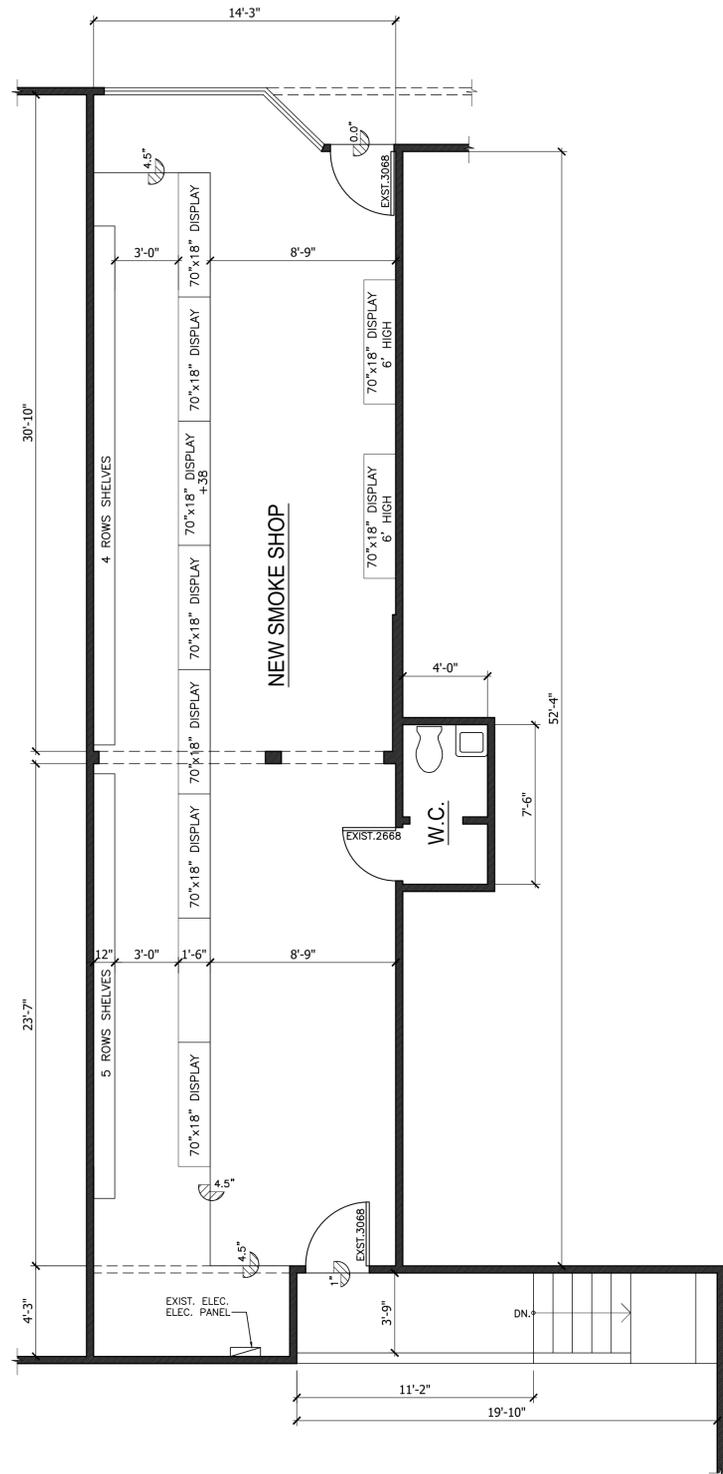
21. The permittee shall comply with a regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of tobacco products.

2022-14 CUP – 120 National City Blvd. – Overhead

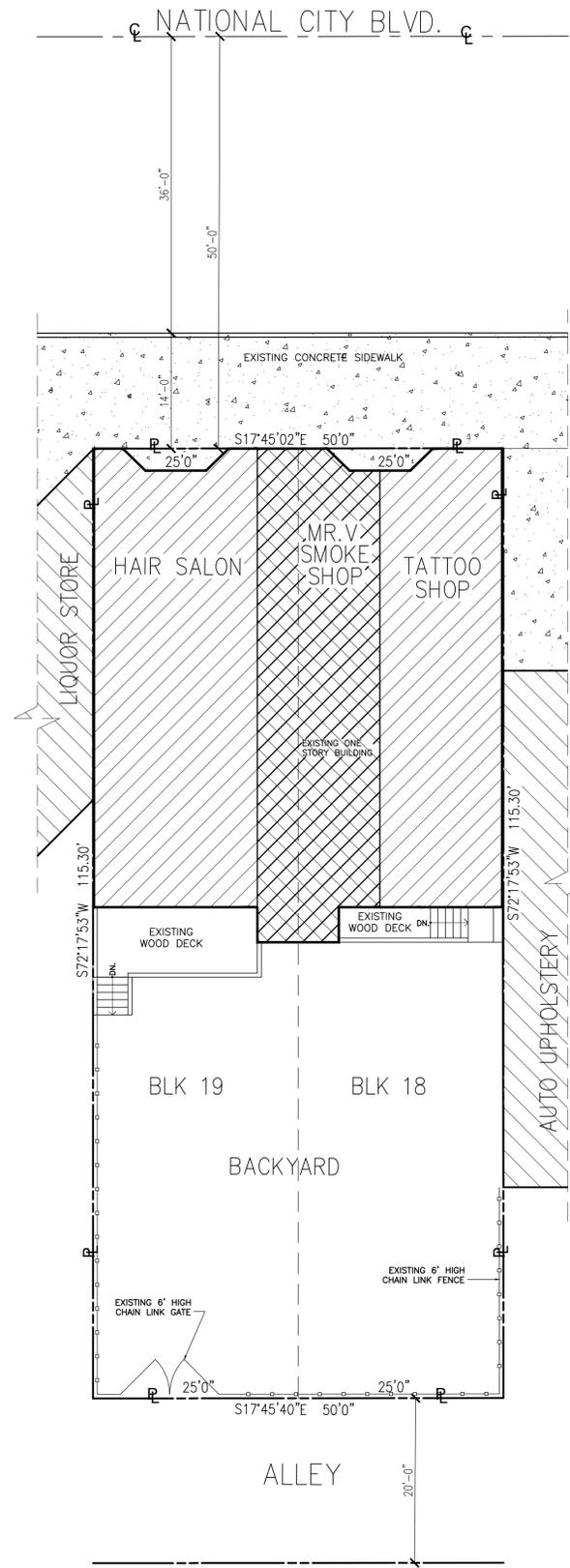


TOTAL AREA OF LEASE SPACE
(896 SQ.FT.)

NOTE:
BUSINESS HOURS: 9 AM TO 9 PM
7 DAYS A WEEK



FLOOR PLAN
SCALE 1/4" = 1'-0"



SITE PLAN
SCALE 1" = 10'-0"

SCOPE OF WORK:

EXISTING SHOP TO BE USE AS SMOKE SHOP, NO CHANGES TO STRUCTURE, ELECTRICAL, OR ANY ADDITION TO THE BUILDING, NEW SHELVES, AND PRODUCT DISPLAY CABINETS.

SHEET INDEX:

A-1) 1"=20' SITE PLAN, VICINITY MAP, SITE DATA, FLOOR PLAN.

LEGAL INFORMATION:

LEGAL DESCRIPTION:
BLK 2*LOTS 18 & 19*

PROJECT NAME:
MR.V SMOKE SHOP

ZONING:
DOWNTOWN SPECIFIC PLAN

BUILDING ADDRESS:
120 NATIONAL CITY BOULEVARD,
NATIONAL CITY, CA 91950

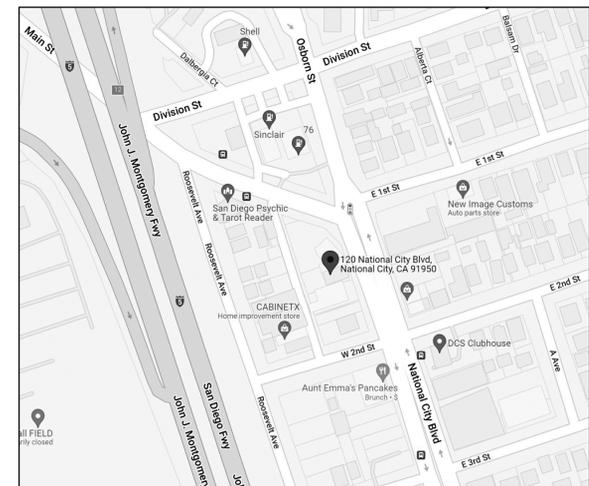
A.P.N. #: 555-020-14-00

TYPE OF CONSTRUCTION: V-B
STORIES: SINGLE

CONTACT: BUSINESS OWNER
HAITHAM PUTRUS
2546 WIND RIVER RD
EL CAJON CA 92019
CELL: 619-654-4348

BUILDING OWNER:
NATIONAL CITY PROPERTIES LLC
JOEL TUBAO
657 10TH STREET
IMPERIAL BEACH
CA 91932

THE PROJECT WILL COMPLY WITH THE FOLLOWING BUILDING CODES:
a. 2019 CALIFORNIA BUILDING CODE (CBC)
b. 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN)
c. 2019 CALIFORNIA ELECTRICAL CODE (CEC)
d. 2019 CALIFORNIA MECHANICAL CODE (CMC)
e. 2019 CALIFORNIA PLUMBING CODE (CPC)
f. 2019 CALIFORNIA FIRE CODE (CFC)
g. 2019 CALIFORNIA BUILDING ENERGY EFFICIENCY STANDARDS (CBEES)



VICINITY MAP
NO SCALE

REVISIONS

PLANS PREPARED BY:
RABIE MIKHA
TELL: (619) 729-5953

PROJECT:
MR.V SMOKE SHOP
120 NATIONAL CITY BOULEVARD
NATIONAL CITY, CA 91950

SITE PLAN
FLOOR PLAN

DRAWN R.M.
DATE 04/05/2022
SCALE
JOB NO.
SHEET

A-1

OF SHEETS



CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT FOR THE OPERATION OF A
TOBACCO SPECIALTY BUSINESS
LOCATED AT 120 NATIONAL CITY BOULEVARD
CASE FILE NO.: 2022-14 CUP
APN: 555-020-14

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, July 18, 2022**, on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Mr. V Smoke Shop)

Due to the precautions taken to combat the continued spread of coronavirus (COVID-19), City Council Chambers are closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://nationalcityca.new.swagit.com/views/33>.

The applicant is proposing to operate a new tobacco specialty business within an existing 896 square-foot commercial suite. The business proposes to sell imported and domestic cigars and cigar smoking paraphernalia and will serve customers 21 years of age and older. Operating hours will be from 10:00 am to 10:30 pm daily.

Plans are available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 4:00 p.m., **July 18, 2022** by submitting it to PlcPubComment@nationalcityca.gov. Planning staff who can be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DIVISION

ARMANDO VERGARA
Director of Community Development

RESOLUTION NO. 2022-15

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A
TOBACCO SPECIALTY BUSINESS (MR. V SMOKE SHOP)
LOCATED AT 120 NATIONAL CITY BLVD.
CASE FILE NO. 2022-14 CUP
APN: 555-020-14

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for a tobacco specialty business in an existing commercial suite (Mr. V Smoke Shop) located at 120 National City Blvd. at a duly advertised public hearing held on July 18, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2022-14 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within Development Zone 1A of the Downtown Specific Plan pursuant to a CUP and the proposed use meets the required standards in the Land Use Code for a tobacco specialty business, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because tobacco specialty businesses are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. Commercial businesses are a permitted use in Development Zone 1A of the Downtown Specific Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the site has sufficient access to streets and highways that are adequate in width and pavement type of traffic generated by the proposed use, since National City Boulevard is classified as an arterial street in the Circulation Element, and the use will be within an existing retail suite and thus is not expected to result in an appreciable increase in traffic.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use will not have an adverse effect upon adjacent or abutting properties, since the proposed retail use is compatible with nearby businesses; and since the proposed use will be subject to conditions that limit the sale and display of tobacco products and/or electronic cigarettes to minors.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in Development Zone 1A.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the sale of tobacco and tobacco related products and paraphernalia at a retail store (Mr. V Smoke Shop) located at 120 National City Blvd. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-14 CUP, dated 2/22/2022.
2. Before this Conditional Use Permit shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form

within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.

3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This Conditional Use Permit may be revoked if the operator is found to be in violation of any Conditions of Approval.

Building

6. Building plans and permits shall be required to meet the 2019 California Building, Mechanical, Electrical, Plumbing, Accessibility, Green, Energy and Fire Codes if submitted prior to the end of the City working calendar year.

Fire

7. Project shall be designed to code.
8. The National City Fire Department utilizes all current codes and ordinances. Currently, we are using the 2019 editions of NFPA, CFC, and the current edition of the CCR.
9. No smoking shall be allowed inside of business at any time per, California law.
10. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

Planning

11. No tobacco sales are permitted until the applicant has been issued a Cigarette and Tobacco Products Retailer's License from the California Department of Tax and Fee Administration.

12. The sale of tobacco and tobacco related products and paraphernalia shall only be permitted between the hours of 10:00 a.m. and 10:30 p.m. daily.
13. The business shall not permit persons under the age of 21 to be on the premises.
14. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.
15. Excepting business identification signage, exterior advertising and signs of all types, promoting or indicating the availability of electronic cigarettes (e-cigarettes), personal vaporizers (PV), or electronic nicotine delivery systems (ENDS), collectively known as electronic cigarettes, flavored tobacco products, or traditional tobacco products, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of electronic cigarettes, flavored tobacco products and signs, which are clearly visible to the exterior, shall constitute a violation of this condition
16. No sales of tobacco products, electronic cigarettes, personal vaporizers, or any other electronic or non-electronic nicotine delivery systems are permitted to minors.
17. No alcohol or food may be sold on the premises.
18. No products containing tetrahydrocannabinol (THC), or any other cannabinoid, may be sold on the premises.
19. No employee of the business may smoke within 20 feet of the main entrance.
20. The business shall comply with all requirements of the U.S. Food and Drug Administration (FDA) related to electronic cigarettes (e-cigarettes), personal vaporizers (PV), electronic nicotine delivery systems (ENDS), or any tobacco or tobacco-related products sold at the store.
21. The permittee shall comply with a regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of tobacco products.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

AYES:

NAYS:

ABSENT: None.

ABSTAIN: None.

CHAIRPERSON

RESOLUTION NO. 2022-13

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
DENYING A CONDITIONAL USE PERMIT FOR THE OPERATION OF
A TOBACCO SPECIALTY BUSINESS (MR. V SMOKE SHOP)
LOCATED AT 120 NATIONAL CITY BLVD.
CASE FILE NO. 2022-14 CUP
APN: 555-020-14

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for a tobacco specialty business in an existing commercial suite (Mr. V Smoke Shop) located at 120 National City Blvd. at a duly advertised public hearing held on July 18, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2022-14 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following finding:

1. The proposed use is not deemed essential and desirable to the public convenience and welfare, since the proposed use for the sale and display of tobacco products and paraphernalia may lead to more people trying the products, which are known to cause disease and lead to premature death.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION OF LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION AT AN EXISTING PUBLIC MARKET (MARKET ON 8TH) LOCATED AT 41 EAST 8TH STREET.

Case File No.: 2022-18 CUP

Location: Northwest corner of East 8th Street and 'A' Avenue

Assessor's Parcel Nos.: 556-331-26

Staff report by: Martin Reeder, AICP – Planning Manager

Applicant: 8th Street Marketplace LLC

Zoning designation: Development Zone 4 (Downtown Specific Plan)

Adjacent land use/zoning:

North: Neiderfrank's Ice Cream / Development Zone 4

East: McDini's / Development Zone 9

South: Union Bank across E. 8th St. / Development Zone 4

West: Integrity Charter School across alley / Development Zone 4

Environmental review: The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit.

Staff Recommendation: Approve

Staff Recommendation

Staff recommends approval of the request for extended alcohol sales hours, live entertainment, and other proposed modifications subject to the attached recommended conditions. The sale of alcohol and live entertainment are conditionally-allowed uses in Development Zone 4 and would be accessory to food sales at the market.

Executive Summary

The market has an existing Conditional Use Permit (CUP), approved in 2016 for a beer tasting room (ABC Type 23 license) with operating hours of noon to 10:00 p.m. daily. The applicant is proposing to change to a Type 41 license (on-sale beer and wine – eating place) and offer live entertainment in the form of live music, DJ, and karaoke. Proposed hours of alcohol sales are 6:00 a.m. to 1:00 a.m. daily with live entertainment from 8:00 a.m. to 1:00 a.m. daily. Other requested modifications include adding a bar on the rear patio, allowing alcohol consumption on the front patio, and selling craft beer and wine to go.

Site Characteristics

The project site is Market on 8th, a multi-tenant food service and retail market. The market is located in the Downtown Specific Plan area. The market has 12 restaurants and two retail merchants, as well as an exterior beer garden/outdoor seating area. One of the primary tenants is Novo Brazil, a local craft beer company that has occupied the building since it opened. Novo Brazil has an ABC (California Alcoholic Beverage Control) Type 23 license (Small Beer Manufacturer), typical of craft beer establishments. Current alcohol sales hours are 12 p.m. to 10:00 p.m. daily.

Although the business opened prior to the City's Tasting Room Ordinance (adopted in 2017), it is still subject to City Council Policy 707, which regulates alcohol sales in the City. This includes the sale of beer to go, which has occurred since that time. At the time of CUP approval, the City Council waived the requirement for alcohol sales to occur with food and alcohol sales to not exceed food sales.

Proposed Use

The applicant is proposing to change to a Type 41 license (on-sale beer and wine – eating place), which will be associated with a restaurant within the market (Weapon Ramen). Novo Brazil will be leaving the market and the Type 23 license will be transferred elsewhere. The current beer bar area inside the market will

remain and continue to be the location for alcohol sales. Hours are requested to be extended from 10:00 a.m. to 10:00 p.m. daily to 6:00 a.m. to 1:00 a.m. daily.

The applicant is also requesting live entertainment in the form of live music (solo entertainer or bands), DJ, and karaoke. Live entertainment hours are proposed from 8:00 a.m. to 1:00 a.m. daily.

Other requested modifications include adding a small mobile bar on the rear patio, allowing alcohol consumption on the front patio, and selling beer and wine to go. While the current craft brewery is permitted to offer beer to go (growlers), that is only through City Council Policy 707 and not through CUP conditions. The change in ABC license would necessitate this request being permitted by new conditions of approval. On and off-site beer and wine sales have previously approved at the Waterfront Grill (Pier 32 Marina).

Analysis

Section 18.30.050 of the National City Land Use Code allows for on and off-site alcohol sales with an approved Conditional Use Permit (CUP). Additional requirements for alcohol CUP's include expanded notification, a community meeting, and distance requirements, although community meetings are not required for CUP modifications or live entertainment (just new applications for businesses selling alcohol). In addition, distance requirements were analyzed for the original CUP.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications, as was done in this case. 595 notices were mailed for this public hearing.

Public comment

Staff received five emails in response to the public notice for the Planning Commission, one asking about the previous approval and four in opposition to the proposal, in particular related to the late operating and live entertainment hours and alcohol to go. Public comments are included as Attachment 8.

Hours of Operation

The most recent CUP's for on-site alcohol consumption have had varying hours of operation (see following table). The Grill House at Big Ben, which received a CUP for on-site alcohol consumption and live entertainment in 2015, is located at the opposite corner of the same intersection. Alcohol consumption is limited until

10:00 p.m. daily. McDini's across 'A' Avenue to the east has alcohol sales until 2:00 a.m. daily.

Business	Address	CUP type	End time
Grill House at Big Ben	108 E 8 th St	Beer & Wine	10 p.m.
Denny's	1904 Sweetwater Rd	Beer & Wine	11 p.m.
Royal Mandarin	1132 E Plaza Blvd	Beer & Wine	10 p.m.
Chipotle	404 Mile of Cars Way	Beer	11 p.m.
Hooters (closed)	Westfield Plaza Bonita	Beer/Wine/Spirits	12 a.m.
Yi Sushi	1430 E Plaza Blvd	Beer & Wine	11 p.m.

Conditions of approval for alcohol sales hours reflect what the applicant has requested (6:00 a.m. to 1:00 a.m.). The applicant has stated that the large timeframe is to cover the potential for events that may occur outside normal market operating hours.

Live entertainment

As mentioned above, the applicant is proposing live entertainment from 8:00 a.m. to 1:00 a.m. daily. There have been three CUPs in recent years that included live entertainment as follows:

Business	Address	Year	Entertainment hours
Tita's II	3421 Plaza Blvd.	2010	5 p.m. to 12 a.m. W-Sa
Big Ben Market	108 East 8 th St.	2015	12 p.m. to 10 p.m. F-Sa
			12 p.m. to 9 p.m. Su
Gerry's Grill	Westfield Plaza Bonita	2021	7:30 p.m. to 10 p.m. Th
			8:30 p.m. to 11:30 p.m.

The times for live entertainment vary and most often have differing times for weekdays as opposed to weekends. Both Tita's II and Gerry's Grill have live entertainment indoors, which assuages noise issues (Tita's has a condition requiring doors be closed during live entertainment times). The Grill House at Big Ben is, for all intents and purposes, an outside venue (there are clear plastic vinyl barriers along 'A' Avenue); their live entertainment hours end 9 p.m. on Sundays, and at 10 p.m. Fridays and Saturdays.

The proposed hours of 8:00 a.m. to 1:00 a.m. daily far exceed all active live entertainment CUPs and poses potential noise issues, particularly as there are

several residential buildings nearby. Staff suggests reducing the proposed hours, both in duration and days. Generally, starting later would be appropriate, but limiting entertainment inside and outside depending on the day, would also be apposite. An example could be as follows:

Live entertainment inside:

12:00 p.m. to 10:00 p.m. Sunday to Thursday

12:00 p.m. to 11:30 p.m. Friday and Saturday

Live entertainment outside:

12 p.m. to 8 p.m. Sunday to Thursday

12 p.m. to 9 p.m. Friday and Saturday

Conditions of approval related to live entertainment reflect what the applicant has requested (8:00 a.m. to 1:00 a.m.), but staff invites discussion on the matter, based on what has previously been approved per the table above.

Regardless of live entertainment hours, conditions have been included to require compliance with noise limitations contained in Title 12 (Noise) of the Municipal Code. Conditions also include requiring doors and windows to remain closed after 9:00 p.m. during live entertainment activities.

Required findings

The Municipal Code contains required findings for Conditional Use Permits. There are six required findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

Alcohol sales and live entertainment are allowable within Development Zone 4 of the Downtown Specific Plan, pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales and live entertainment are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan. A restaurant accessory beer sales is also a use that is consistent with Development Zone 4 of the Downtown Specific Plan, which allows such uses.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed use is existing and is accessory to the restaurant and public market, which is located in an existing commercial area. The building is existing and has ten on-street parking spaces adjacent to the property, as well as access to several nearby parking areas. Live entertainment would occur within the existing building.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The sale and consumption of beer and wine would continue to be a small part of the overall public market use, with the alcohol serving area only 10% of the total floor area of the whole property. Alcohol consumption would be monitored by staff of the public market. In addition, the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available. Furthermore, live entertainment will be limited to appropriate hours and to maximum noise standards to avoid impacts to nearby residential uses.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act.

The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as the current uses and the density of which were analyzed as part of the Downtown Specific Plan.

7. That the proposed use is deemed essential and desirable to the public convenience or necessity.

Alcohol sales have contributed to the viability of the public market, an allowed use in Development Zone 4 of the Downtown Specific Plan. The existing tasting room has been a draw for area and non-area residents alike and has further activated the downtown core, consistent with the spirit and intent of the Downtown Specific Plan. The addition of live entertainment is expected to add to the success of the market and the enjoyment of its patrons.

Department and Agency Comments

Alcohol Sales Concentration/Location – Per ABC, there are currently four on-sale permits issued in the subject census tract (118.01). These permits are:

Name	Address	License Type*	CUP
Oriental Café	39 East 7 th Street	41	-
McDini's	105 East 8 th Street	47	-
Napoleone's Pizza House	619 National City Blvd.	41	Y
Market on 8 th	41 East 8 th Street	23	Y

- * Type 41 – On-Sale Beer and Wine
- Type 47 – On-Sale General
- Type 23 – Small Beer Manufacturer

Of the four licenses, two are restaurants, one a bar that also offers food, and the applicant's business. The subject use is consistent with other on-sale businesses, all of which are consistent with the Downtown Specific Plan.

Census tract 118.01 includes the area between Division Street and East 8th Street, and between National City Blvd. and Highland Avenue. The attached census tract map shows the location of the subject tract. ABC recommends a total of four off-sale alcohol permits be issued in this census tract, where four exist.

Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 14 points, which places it in the Medium Risk category. Medium risk is considered 13 to 18 points. PD comments are included as Attachment 8.

Institute for Public Strategies (IPS)

No comments were received from IPS as of the writing of this report, although they usually recommend at least the need for Responsible Beverage Sales and Service (RBSS) training for all staff. This is a previous condition of approval and would continue to be attached to this CUP.

Conditions of Approval

The previous approval resolution contained standard Conditions of Approval, as well as conditions specific to on-sale alcohol sales per Council policy 707 (hours of operation, employee training, accessory sales, etc.). City Council waived two conditions related to alcohol sales only with food and alcohol sales not to exceed food sales. All previous conditions, unless modified by a subsequent approval would continue to be in effect. There are also conditions related to live entertainment hours and noise abatement, as discussed above.

Because the applicant is proposing to offer craft beer and wine to go, conditions from City Council Policy 707 related to off-sale alcohol are included. The hours in particular are limited in order to maintain the market-like nature of the business. The “to-go” products would primarily be bottles of craft beer and potentially bottles of wine. Craft beer bottles are typically 22-ounces in size, which is in conflict with the Council Policy, which prohibits the sale of beer in certain quantities:

1. *The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.*

The applicant is requesting the waiver of this condition; however, only the City Council may waive a policy condition, although it would be pertinent for the Planning Commission to make a recommendation one way or the other in the case of a waiver request. In order for the Council to waive or modify a condition, they would need to hold another public hearing after the Planning Commission makes its decision. If the Planning Commission is amenable to the waiver of the specific Condition of Approval (No. 10 in the attached recommended Conditions of Approval), said recommendation should be part of the motion to approve (see "Options").

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption and live entertainment both being conditionally-allowed uses in Development Zone 4 of the Downtown Specific Plan. The alcohol sales use would continue to be accessory to the existing public market in an established commercial area. The addition of live entertainment, will also be accessory to the market use. The inclusion of conditions requiring compliance with noise standards and operating hours is intended to alleviate concerns related to area impacts. A Notice of the Planning Commission's decision will be sent to City Council for final action.

Options

1. Approve 2022-18 CUP subject to the conditions listed within, based on the attached findings, with a recommendation to the City Council that Condition of Approval No. 10 be waived; or
2. Approve 2022-18 CUP subject to the conditions listed within, based on the attached findings, or findings to be determined by the Planning Commission; or
3. Deny 2022-18 CUP based on the attached finding or findings to be determined by the Planning Commission; or,
4. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2022-18 CUP, dated 4/7/2022)
5. City Council Resolution 206-122
6. City Council Policy 707
7. Public Hearing Notice (Sent to 595 property owners & occupants)
8. Public comment
9. Census Tract & Police Beat Maps
10. PD comments
11. CEQA Notice of Exemption
12. Resolutions



MARTIN REEDER, AICP
Planning Manager



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

2022-18 CUP – Market on 8th

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because alcohol sales and live entertainment are allowable within Development Zone 4 of the Downtown Specific Plan, pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan. A restaurant accessory beer sales is also a use that is consistent with Development Zone 4 of the Downtown Specific Plan, which allows such uses.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed use is existing and is accessory to the restaurant and public market, which is located in an existing commercial area. The building is existing and has ten on-street parking spaces adjacent to the property, as well as access to several nearby parking areas. Live entertainment would occur within the existing building.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the sale and consumption of beer and wine would continue to be a small part of the overall public market use, with the alcohol serving area only 10% of the total floor area of the whole property. Alcohol consumption would be monitored by staff of the public market. In addition, the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available. Furthermore, live entertainment will be limited to appropriate hours and to maximum noise standards to avoid impacts to nearby residential uses.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act and is not considered a project,
7. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as the current uses and the density of which were analyzed as part of the Downtown Specific Plan.
8. That the proposed use is deemed essential and desirable to the public convenience or necessity, because alcohol sales have contributed to the viability of the public market, an allowed use in Development Zone 4 of the Downtown Specific Plan. The existing tasting room has been a draw for area and non-area residents alike and has further activated the downtown core, consistent with the spirit and intent of the Downtown Specific Plan. The addition of live entertainment is expected to add to the success of the market and the enjoyment of its patrons.

RECOMMENDED FINDING FOR DENIAL

2022-18 CUP – Market on 8th

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

RECOMMENDED CONDITIONS OF APPROVAL

2022-18 CUP – Market on 8th

General

1. This Conditional Use Permit authorizes the extension of alcohol sales hours (as stated in Condition No. 9 below), the addition of live entertainment (subject to the hours stated in Condition No. 15 below), a mobile bar in the back patio, off-site alcohol sales (subject to the hours stated in Condition No. 10 below), and consumption of alcohol in the front patio at an existing public market located at 41 East 8th Street. Any plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-18 CUP, dated 4/7/2022.
2. Unless specifically modified by this resolution, all Conditions of Approval of City Council Resolution 2016-122 shall remain in full force and effect.
3. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

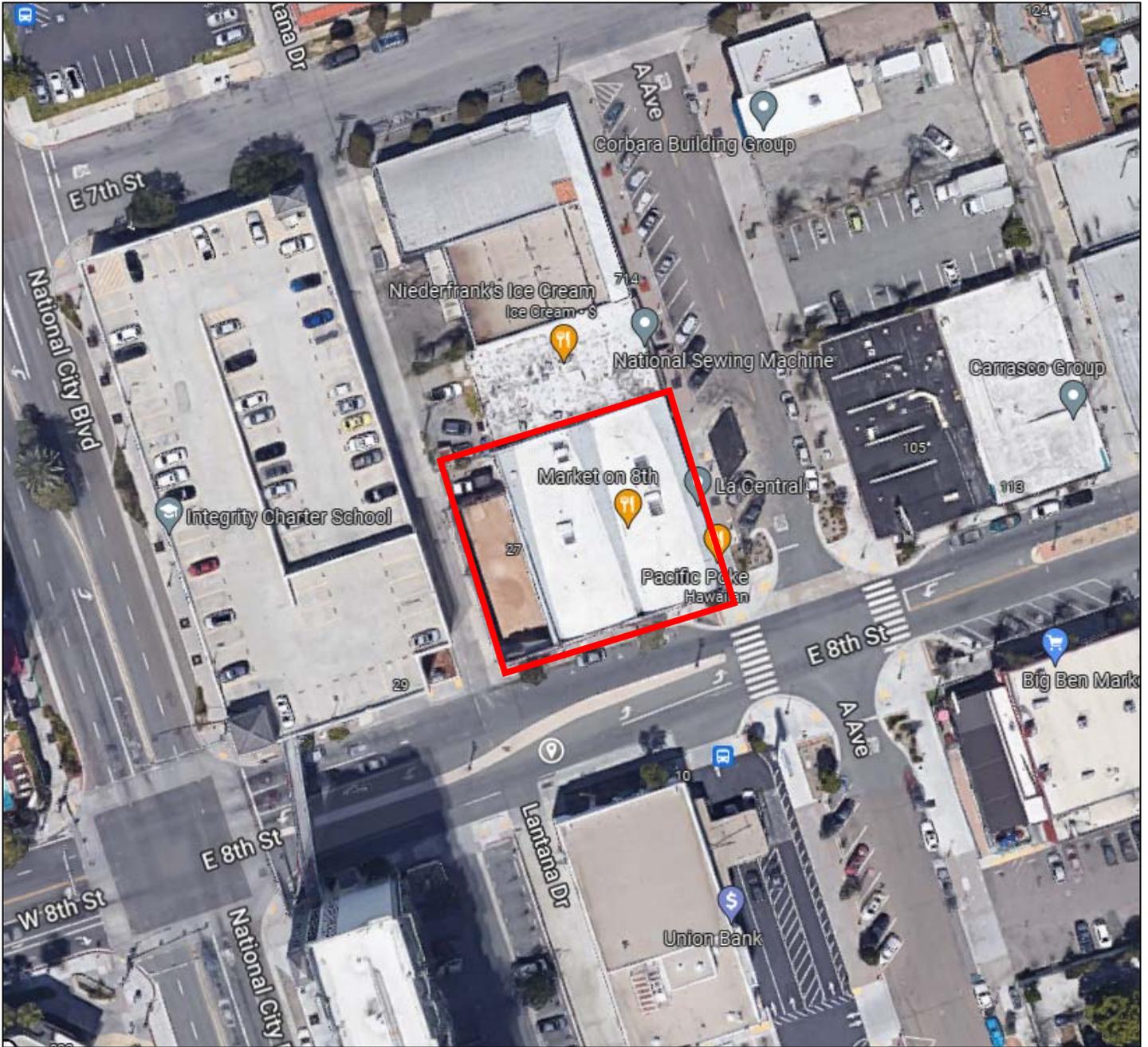
7. No change in alcohol sales and consumption practices shall be permitted without receiving a Type 41 license from the California Department of Alcoholic Beverage Control (ABC).

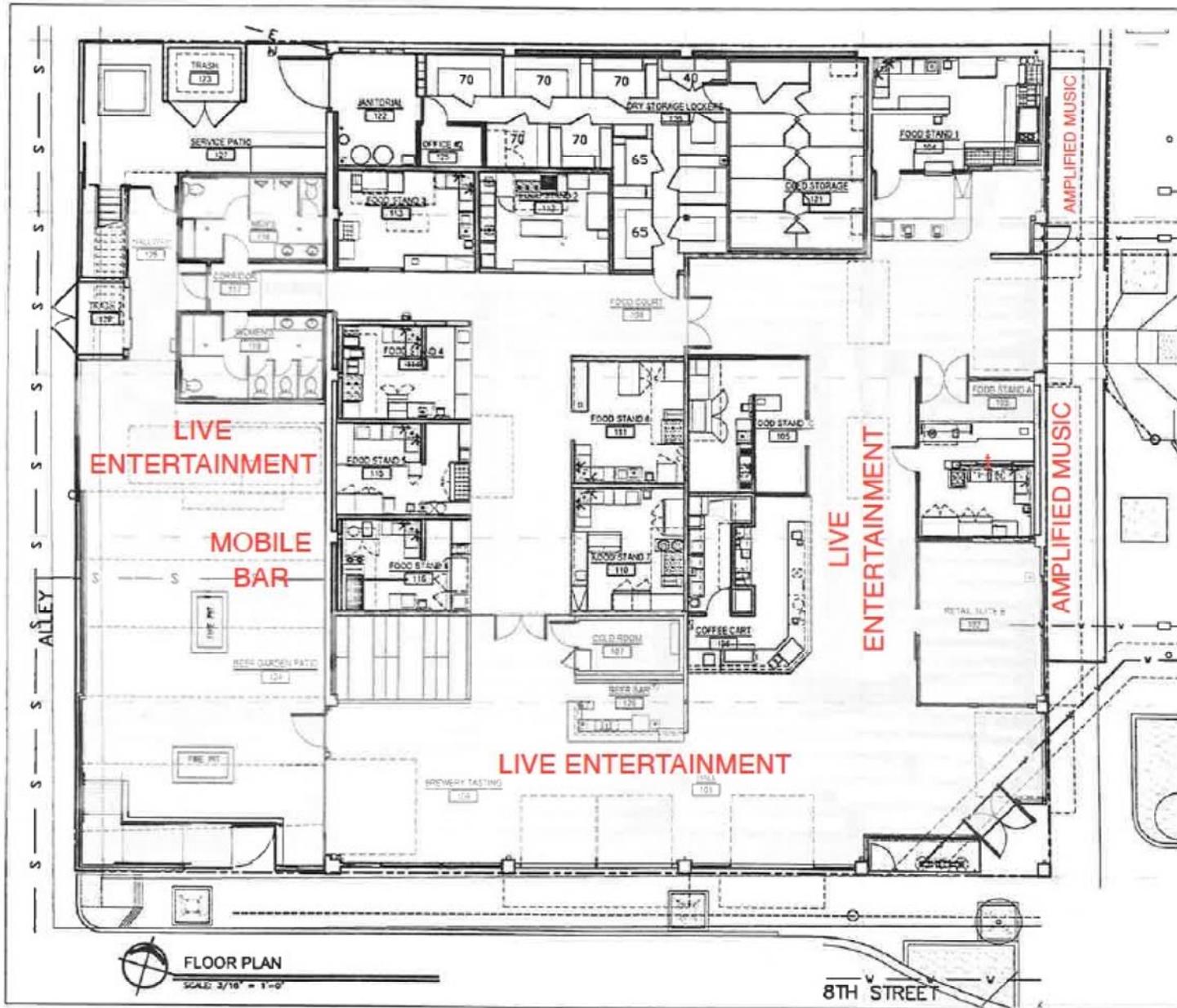
8. The Type 41 ABC license shall not be considered in effect until the Type 23 ABC license has been surrendered or transferred to a different location.
9. The sale of alcoholic beverages for on-site consumption shall only be permitted between the hours of 6:00 a.m. and 1:00 a.m. daily.
10. The sale of alcoholic beverages for off-site consumption shall only be permitted between the hours of 12:00 p.m. and 10:00 p.m. daily.
11. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
12. No sale of wine shall be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
13. Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
14. Live entertainment shall be conducted as an accessory use to the public market for the enjoyment of its patrons. No concerts or specific live entertainment events shall be permitted.
15. Live entertainment shall be permitted between the hours of 8:00 a.m. and 1:00 a.m.
16. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
17. All entry and exit doors, including windows, shall remain closed after 9:00 p.m. during inside live entertainment activities.
18. Speakers located on the patio along 'A' Avenue shall be turned off no later than 9:00 p.m. daily
19. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

20. The permittee shall comply with all applicable laws, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

2022-18 CUP – Market on 8th – Overhead



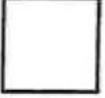


FLOOR PLAN
SCALE: 3/16" = 1'-0"

8TH STREET

*A' AVENUE

PABLO PAREDES AIA
ARCHITECT
CEL (958) 736 5579
4140 MARINE VIEW AVE. SAN DIEGO CA 92115
pablo@pabro.com



8TH ST PUBLIC MARKET
41 E 8TH STREET, NATIONAL CITY, CA

NO.	DATE	SCALE
1	10/15/14	3/16" = 1'-0"
2	11/10/14	3/16" = 1'-0"
3	12/10/14	3/16" = 1'-0"
4	01/15/15	3/16" = 1'-0"
5	02/10/15	3/16" = 1'-0"
6	03/10/15	3/16" = 1'-0"
7	04/10/15	3/16" = 1'-0"
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9	06/10/15	3/16" = 1'-0"
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99	12/10/22	3/16" = 1'-0"
100	01/10/23	3/16" = 1'-0"

PROJECT NO. 161001
DATE 07/14/21
SHEET FILE FLOOR PLAN
A-5
SHEET 6 OF 86

RESOLUTION NO. 2016 – 122

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY
APPROVING A CONDITIONAL USE PERMIT FOR A CRAFT BEER
TASTING ROOM (NOVO BRAZIL) AT 27 AND 41 EAST 8TH STREET

WHEREAS, the City Council considered a Conditional Use Permit (CUP) for a craft beer tasting room (Novo Brazil) at 27 and 41 East 8th Street at a duly advertised public hearing held on August 2, 2016, at which time the City Council considered evidence; and

WHEREAS, at said public hearing, the City Council considered the staff report provided for Case File No. 2016-12 CUP, which is maintained by the City and incorporated herein by reference, along with any other evidence presented at said hearing; and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law, and is found to be essential for the preservation of the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of National City that the evidence presented to the City Council at the public hearing held on August 2, 2016, support the following findings:

FINDINGS FOR APPROVAL
OF THE CONDITIONAL USE PERMIT

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit, and complies with all other applicable provisions of the Land Use Code because the use is allowable within Development Zone 4 of the Downtown Specific Plan as a retail use pursuant to a Conditional Use Permit, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan because alcohol sales are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan. A public market with accessory beer sales is a use that is consistent with Development Zone 4 of the Downtown Specific Plan, which allows retail uses.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity because no expansion of the building is proposed. The proposal involves the interior construction of a public market space, which is consistent with other commercial businesses in the area. Development of the area was analyzed for traffic impacts as part of the Downtown Specific Plan, which envisioned significant density in this area. The sale of alcohol would be accessory to the sale of other products in the market, which would not create traffic issues above and beyond what was expected as part of the development of downtown. Access to and from the site is provided by East 8th Street, an arterial street operating at a Level of Service (LOS) of "C". East 8th Street in this location is operating at half of its capacity. In addition, the sale of alcohol is not expected to result in an increase in Average Daily Trips (ADT) such that the LOS would be affected, particularly as the area devoted to alcohol sales is only a small part of the overall public market.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints because the proposed use would be accessory to the public market that will be located in an existing

commercial area. The building is existing and has ten (10) on-street parking spaces adjacent to the property, as well as access to several nearby parking areas.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located because the sale and consumption of beer would be a small part of the overall public market use, alcohol consumption would be monitored by staff of the tasting room and public market, and the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1 Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as non-conditionally allowed uses (commercial and retail enterprises).

7. That the proposed use is deemed essential and desirable to the public convenience or necessity because alcohol sales will contribute to the viability of a public market, an allowed use in Development Zone 4 of the Downtown Specific Plan. The tasting room as part of the market would be a draw for area and non-area residents alike. It would also help to further activate the downtown core, consistent with the spirit and intent of the Downtown Specific Plan.

8. That based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the retail sales of alcoholic beverages pursuant to law.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes a beer tasting room at a proposed market to be located at 27 and/or 41 East 8th Street, including sales of sealed containers (commonly known as growlers) for off-site consumption (per ABC Type 23 license regulations). Only beer produced by the master licensee under a Type 23 (small beer manufacturer) license may be sold and/or consumed at this location. The serving and consumption of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit "A", Case File No. 2016-12 CUP, dated June 7, 2016.

2. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Municipal Code.

3. This permit shall expire if the use authorized by this Resolution is discontinued for a period of 12 months or longer. This permit may also be revoked pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.

4. This Conditional Use Permit may be revoked if the operator is found to be in violation of the Conditions of Approval.

5. Before this Conditional Use Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form provided by the Planning Department acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Deputy City Manager that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Deputy City Manager prior to recordation.

Planning

6. Alcohol sales shall be limited to the hours of 12:00 p.m. to 10:00 p.m., daily.

7. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a City business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

8. Alcohol shall be available only in conjunction with the availability of food on the premises.

9. The consumption of alcoholic beverages is prohibited outside of the building, with the exception of the outdoor enclosed patio seating area. The permittee shall post signs, to be approved by the Planning Department, at the entrances and exits to the building prohibiting consumption of alcohol beyond those points. Said signs shall not be less than 17 by 22 inches (17" x 22") in size, with lettering not less than one inch (1") in height. The signs shall read as follows:

a. "No consumption of alcohol is allowed beyond this point."

b. "No open alcoholic beverage containers are allowed beyond this point."

10. All activities shall abide by the limitations contained in Table III of Title 12 (Noise) of the National City Municipal Code.

11. All activities involving the sale of food from a food truck or similar apparatus shall be consistent with Chapter 9.06 (Food Vending Vehicles) of the National City Municipal Code.

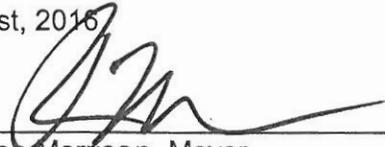
12. The proposed alcohol sales, service, and consumption shall abide by all applicable rules and regulations as stated by the California Department of Alcoholic Beverage Control (ABC). In the case where any of these conditions violate any laws, rules, or regulations administered by ABC, the laws, rules, or regulations shall govern.

Police

13. Permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

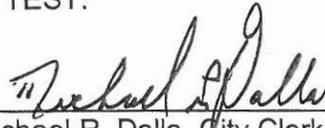
BE IT FURTHER RESOLVED that this Resolution shall become effective, final, and conclusive on the day following the City Council meeting where this Resolution is adopted. The time within which judicial review of this decision may be sought is governed by the provisions of Code of Civil Procedures Section 1094.6.

PASSED and ADOPTED this 16th day of August, 2016



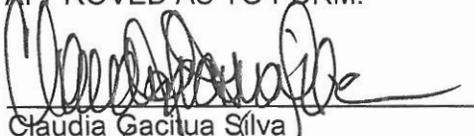
Ron Morrison, Mayor

ATTEST:



Michael R. Dalla, City Clerk

APPROVED AS TO FORM:



Claudia Gacitua Silva
City Attorney

Passed and adopted by the Council of the City of National City, California, on August 16, 2016 by the following vote, to-wit:

Ayes: Councilmembers Cano, Mendivil, Morrison, Rios, Sotelo-Solis.

Nays: None.

Absent: None.

Abstain: None.

AUTHENTICATED BY: RON MORRISON
Mayor of the City of National City, California

MICHAEL R. DALLA
City Clerk of the City of National City, California

By: _____
Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. 2016-122 of the City of National City, California, passed and adopted by the Council of said City on August 16, 2016.



Michael R. Dalla
City Clerk of the City of National City, California

By: _____
Deputy

CITY COUNCIL POLICY

TITLE: Alcohol Beverage License Application Review Process
and Alcohol Conditional Use Permit Standards

POLICY
NUMBER 707

ADOPTED: November 12, 1991

AMENDED OR

REVISED: December 19, 2017

Page 1 of 5

PURPOSE/BACKGROUND:

To streamline the process of alcohol license application review to ensure timely staff responses and/or protests to the Department of Alcoholic Beverage Control regarding these applications.

The City Municipal Code requires Conditional Use Permits for the sale of alcohol. Such land use regulation is designed to ensure that the health, safety and welfare of the community does not become negatively impacted. In order to minimize any potential adverse effects of alcohol sales for both on and off-site consumption, including public drunkenness, disorderly conduct, illegal sales or domestic violence, the City adopts conditions of approvals and enact policies designed to protect the public from such effects. The following sets forth the City Council's policy on the applicable alcohol standards for Conditional Use Permit applications for both on and off-sale alcohol sales, as well as the Department of Alcoholic Beverage Control application notification requirements.

POLICY:

The Department of Alcoholic Beverage Control (ABC) sends copies of all alcoholic beverage license applications to the Police Department. The City has thirty days from the date of the ABC mailing to provide comments to the ABC. If no protests are received within that time period, the ABC issues the license.

The Police Department is responsible for ensuring that an appropriate Conditional Use Permit (CUP) exists for the applicant business. If such a CUP exists, the copy of the application is simply filed by the Police Department in the existing file with the notation that there were no objections to the issuance of the license. If it is a new (in the case of an "original" license application) or expanding business or one seeking a license to effect a premises transfer, and no CUP exists, the Police Department is responsible for sending a letter to the ABC protesting the issuance of the license until a CUP is issued by the City.

Whenever such a protest letter is sent to the ABC, that agency notifies the applicant that they must begin the process of obtaining a CUP with the City's Planning Division and that the issuance of the alcoholic beverage license will be delayed until such time as the protest is withdrawn.

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Once a CUP has been issued, the Planning Division notifies the Police Department of that issuance and it is then the responsibility of the Police Department to notify the ABC that the protest is withdrawn.

The CUP application, approval and issuance process is such that it provides all the checks, balances and controls necessary to ensure that businesses seeking alcoholic beverage licenses are in compliance with local standards.

These conditions of approval shall apply to all new Conditional Use Permits (CUPs) for the sale of alcohol for on and/or off-site consumption and modifications of existing CUPs for such sales as specified by the preceding parenthetical references with each condition. These references specify to which type of alcohol CUP being applied for the conditions would apply to – on-sale (restaurant, bar, etc) or off-sale (market, grocery store, etc). Regulation of these conditions and allowances shall be enforced through the Conditional Use Permit process, specifically conditions of approval to read as follows:

1. **(off-sale alcohol)** The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
2. **(off-sale alcohol)** No beer products shall be sold of less than manufacturer's pre-packaged three-pack quantities of 24 ounce cans per sale. There shall be no sale of single cans or bottles.
3. **(off-sale alcohol)** No sale of wine shall be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
4. **(off-sale alcohol)** Flavored malt beverages, also known as premium malt beverages and flavored malt coolers, and sometimes commonly referred to as wine coolers, may be sold only by four-pack or other manufacturer's pre-packaged multi-unit quantities.
5. **(off-sale alcohol)** The consumption of alcoholic beverages is prohibited on the subject premises, and on all parking lots and outbuildings and any property or adjacent property under the control of the applicant.
6. **(off-sale alcohol)** All cups and containers shall be sold at or above prevailing prices and in their original multi-container packages of no fewer than 12, and no cups and containers shall be given free of charge.

CITY COUNCIL POLICY

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7. **(off-sale alcohol)** Ice may be sold only at or about prevailing prices in the area and in quantities of not less than three pounds per sale. Ice shall not be provided free of charge.
8. **(off-sale alcohol)** The display of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit ____, Case File No. ____, dated ____.
9. **(off-sale alcohol)** Permittee shall post signs on the exterior building walls in compliance with Chapter 10.30.070 of the National City Municipal Code. Additionally, the permittee shall post signs, to be approved by the Planning Division, at each entrance to the applicant's premises and parking lot, prohibiting loitering and consumption of alcohol on the premises and adjacent property under his control. Said signs shall not be less than 17 by 22 inches in size, with lettering not less than one inch in height. The signs shall read as follows:
 - a. "No open alcoholic beverage containers are allowed on these premises."
 - b. "No loitering is allowed."
10. **(off-sale alcohol)** Containers of alcohol may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
11. **(off-sale alcohol)** Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
12. **(off-sale alcohol)** The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of all other commodities during the same period. The applicant shall at all times keep records which reflect separately the gross sales of alcoholic beverages and the gross sales of all other items. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City Finance Department and any Peace Officer of the California Department of Alcoholic Beverage Control upon demand.
13. **(on and off-sale alcohol)** All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part -

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- of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

14. **(on-sale alcohol)** The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
15. **(on-sale alcohol)** Alcohol shall be available only in conjunction with the purchase of food.
16. **(on-sale alcohol with patio)** Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
17. **(brewery tasting rooms)** The requirements that alcohol be available only with the purchase of food and that alcohol sales not exceed food sales shall not apply to tasting rooms.
18. **(brewery tasting rooms)** Sales of sealed containers (commonly known as growlers) for off-site consumption of the beer produced by the master licensee may be sold and/or consumed at this location.
19. **(brewery tasting rooms)** Hours of operation of tasting rooms shall be limited to between 10:00 a.m. to 10:00 p.m. with last call being at 9:00 p.m.
20. **(brewery tasting rooms)** With the submittal of a business license for a tasting room, the Police Department shall provide an ABC Risk Assessment for each business applicant that indicates whether the business is considered a low, medium, or high risk. In the event that a risk assessment for the business allocates more than 15 points, no business license shall be issued without the issuance of a Conditional Use Permit.

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The sale of three-packs of 24-oz cans of beer shall apply retroactively to all existing off-sale CUPs where a condition exists limiting sales to no less than six-pack quantities. However, business wishing to avail themselves of this modification must conform with all regulations of the Department of Alcoholic Beverage Control (ABC).

The Council may, at its sole discretion, choose to waive or modify any of the above conditions.



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION OF
LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION
AT AN EXISTING PUBLIC MARKET (MARKET ON 8TH)
LOCATED AT 41 EAST 8TH STREET.
CASE FILE NO.: 2022-18 CUP

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, July 18, 2022** on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chamber, 1243 National City Boulevard, National City, California. (Applicant: 8th Street Marketplace LLC)

Due to the precautions taken to combat the spread of coronavirus (COVID-19), City Council Chambers is closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://nationalcityca.new.swagit.com/views/33>.

The market has an existing Conditional Use Permit (CUP) for a beer tasting room (ABC Type 23 license) with operating hours of noon to 10:00 p.m. daily. The applicant is proposing to change to a Type 41 license (on-sale beer and wine – eating place) and offer live entertainment in the form of live music, DJ, karaoke, and karaoke. Proposed hours of operation are 6:00 a.m. to 1:00 a.m. daily. Other requested modifications include adding a bar on the rear patio, allowing alcohol consumption on the front patio, and selling beer and wine to go.

Members of the public are invited to comment. Written comments should be received on or before 4:00 p.m., **July 18, 2022** by the Planning Division, who can be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DIVISION

ARMANDO VERGARA
Director of Community Development

Martin Reeder

From: Sandra McColl <nca1smccoll@hotmail.com>
Sent: Tuesday, July 12, 2022 8:35 AM
To: Planning
Subject: Re public hearing " market in the 8th"

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear planning ,

Regarding opening until 1 am with live music - I am against . 10 pm seems a reasonable time to close , also against selling alcoholic drinks to go until late in the night - this only will promote drunk driving , disorderly conduct , accidents . Please keep things as it is . It seems that when you allow something that before was not allowed , they want more and more and more (you give your hand and they want the whole arm) let's keep our families safe and in peace . Thank you
Sandra McColl and Bill McColl Sent from my iPhone

Martin Reeder

From: Bill McColl <bill@silviamccoll.com>
Sent: Wednesday, July 13, 2022 12:26 PM
To: Planning
Subject: Conditional Use Permit - Public Market - 41 East 8th

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear City of National City,

We are opposed to allowing the sale of liquor to go from the Public Market during the evening hours. Allowing the vendor to sell "to go" liquor in the day seems acceptable, but to allow "to Go" liquor from a party atmosphere (night time, music, bar) is a recipe for trouble. To extend operating hours to 1am on a weekend also seems reasonable, but to allow those extended hours on a nightly basis will attract an unhealthy party crowd. Lots of us in National City work in construction and in hospitality. We are up early. Let's keep the noise down in our neighborhood for those who work and especially for our children.

Thank you for the opportunity to comment.

Bill and Sandra McColl
619 559 -8395

Martin Reeder

From: David Ruffin <tempts1957@gmail.com>
Sent: Wednesday, July 13, 2022 10:58 PM
To: Planning
Subject: Public Market on 8th CUP file 2022-18 CUP

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

We are residents within the area of 7th and A street, responding to a letter concerning Market on 8th conditional use modification request. I am also a co-owner of property within the 600 block of "A" Avenue with 4 rentals.

We are absolutely OPPOSED to any live entertainment at this location for these reasons:

1. Markets do NOT offer live entertainment nor do any other retail markets offer this within the city. If it was, every 7-11 in National City would be offering free karaoke with any Jumbo Slurpee purchase.

2. The "Market" does not have a permit for a tasting room. The tenant there, NOVO BRAZIL holds the actual type 23 alcoholic license issued by the CA Department of Alcoholic Beverage Control (ABC). MARKET on 8th is NOT on the ABC permit, it does NOT hold a liquor license .

The Market has nothing to do with the ABC license other than common stock holders names listed. (Licensee information for ABC license #612592)

A retail market, typically holders on an "off sale" ABC permit cannot serve alcohol on premise.

Market on 8th has neither for "on sale" or "off sale" ABC permits.

3. Neither Market on 8th nor the ACTUAL type 23 license holder, Novo Brazil have submitted ANY CHANGES or REQUESTS TO MODIFY they're type 23 small beer mfr license as of today's date, according to updated ABC information for this 27-47 East 8th business address.

Planning indicates "applicant is proposing to change to a type 41 license"., etc.

Under state ABC law, a type 41 beer license CANNOT be considered nor approved due to multiple ABC regulations, among them, the PUBLIC CHARTER SCHOOL located 19'.2" from 27 East 8th Street (Novo outdoor patio) the area aside school indoor playground/recess area among other regulations including proximity of residences affected by Novo's use of off street parking, absence of a full kitchen serving full meals at Novo and (predictably) impending public protests to the license change.

It is interesting to note that Novo/Market did not have to follow normal NCMC codes (section 18)

to open as a beer bar under the guise of a mini-brewery, however, now they seek to use that "secret" advantage to acquire live entertainment and dancing.

Oddly, to our understanding, NCPD, City Manager Ralston and current council members have recently been adverse to the idea of Live Entertainment and Dancing within that same block having taken adamant steps to prevent just that just, only a few steps away at an established ABC venue with ample parking accommodations and full kitchen facilities.

On the surface, this CUP modification request appears to be little more than a poorly disguised attempt by either: CITY of National City or Market on 8th ownership (or all three) to "award" licensee Novo Brazil with live entertainment, live music, DJ's, Karaoke with live audience participation and (though not listed on City's Notice), dancing, implying the more "docile" Market is the actual party seeking to gain live entertainment when in reality, it is the unmentioned Bar (Novo) who would most benefit from this approved condition strategy.

The word "proposed" used in the CUP mod language is nothing more than a semantic tactic inserted to persuade or "fool" area residents into thinking the type 41 ABC license request has already been set into motion,.....*when, in fact, it HAS NOT BEEN!

4. There are conflicts with the 2016 Market on 8th resolution 2016-122

The parking requirements for an 11,000 sq ft retail bldg with at least 11 different tenants currently does not allow for additional vehicle traffic. When Market applied for 2016 CUP, there were either 3 or fewer leased tenants, had there been 11 as there presently, the CUP would have likely been denied for a type 23 beer bar or any alcohol serving venue.

There are 19 parking spots within adjacent "A" Ave, 2 at front of 41 East 8th, one green zone, one handicapped space and ten more spots on East 7th between 8th St alley and "A" Avenue

ALL shared with LONGTIME established businesses, 4 of whom have NO private lots

Newer retail-tenant Container Store serves 250-400 retail customers daily at 706 "A" occupying much of the parking within "A" Avenue and 7th Street from the rear with new hours 9A -10PM weekends when Novo appears busiest. Neiderfranks Ice Cream and Vee Auto Parts are open 7 days with limited off street parking shared with Container store AND Market.

Findings for approval (#3 on 2016 CUP) indicated (alcohol sales at Market), "would not create traffic issues above and beyond what is expected as part of the development of downtown".

The key here is neighboring (and smaller) cities (La Mesa, Imperial Beach, El Cajon) have city owned or managed public parking lots to accommodate multiple vehicles. National City does not have that "luxury" with no known plans to offer or construct a parking structure to offset that growing parking nuisance, leaving patrons to trespass onto other privately owned lots, block residential driveways and alleyways while creating contentions that are becoming increasingly violent and dangerous for law enforcement, resulting in multiple calls for service at 27-41 East 8th Street area. No increased parking solutions, noise title violation solutions or potential ABC licensee conditions have been listed on the CUP modification, as this entire presentation is a self serving attempt to fool the area residents of National City.

Summary: (What this all means)

Most everyone within 660' of Novo/Market on 8th never took the food court rental concept seriously, and conditions have changed now with 11 food court tenants and a beer bar (Novo), no realistic parking solution, something neighboring merchants can do little about.(Our mistake)

If the "proposed" hour changes and entertainment were approved, it would cause a potential legal situation bordering on public nuisance, with city's "dirty hands" all over this.

There exists a question of ethics as the notice' language contains glaring inaccuracies blatantly presented to unsuspecting area residents without full knowledge of ABC law and this situation as it is being offered in black and white, the word "fraudulently" comes to mind.

*There is no plan to upgrade into a type 41, if there is, please demand the applicant present that as evidence of they're intentions at the July 18, 2022 hearing for all to view., if they lied, REJECT the proposal as to what it is, futile attempts at some odd favoritism to a Market WITH NO LIQUOR LICENSE on file with the state ABC.)

Conclusion

If the actual ABC licensee wishes to apply for live entertainment, they must first develop and present a CLEAR plan for increased private parking to accommodate additional patrons from "6AM until 1AM" or during whatever serving times they seek. There is no mention of that on request.

Predictable CUP conditions like "ALL DOORS MUST STAY CLOSED WHILE MUSIC PRESENT", WINDOWS MUST BE CLOSED, (all presumingly from 6A - 1A) must stay and are aside from this.

Market/Novo has already shown they cannot be entrusted to follow those exact simple 2016 CUP conditions as they have already demonstrated by at least (8) calls for service to NCPD for ABC condition violations and (5) Problem Location complaints filed with the state ABC enforcement division for violations of the Novo ABC license conditions that may already be under accusation stages of enforcement.

There is NO PLAN HERE, only a PLOT to add entertainment to an existing mini-brewery (Market?) that would inevitably be public protested and most likely DENIED by the state.

Both the Market on 8th and Novo Brazil will be fine the way they are now with the area peaceful and quiet, despite the lack of parking and PD enforcement.

We would like to keep it the way it is.

Save us National City residents from the problems this modification approval would surely invoke.

DO what is correct.

DENY THIS REQUEST ON MONDAY JULY 18th, 2022

David D. Ruffin
Resident

To Planning Department:

07-14-2022

We operate Vee Parts & Accessories at 704 A Avenue. It would be a grand mistake to allow live entertainment at The Market on 8th/Novo Brazil for any reason. There is absolutely no parking for anyone anymore. We have lost 50% of our walk in business due to the lack of public parking, that is part 1. Many of those market visitors, food pick-up services and delivery trucks invade the McDini's parking lot. Mr. Adler asks us to maintain voluntary vigil out there. If we ask persons to leave they get disrespectful or violent to the point of confrontational and potentially deadly. We will be opening later in the evenings and weekends to compensate the lack of business. There is NO room for extra cars, visitors, music or what this brings unless the City buys the parking structure/school at 8th & National City BLVD. or constructs a public parking BLDG. for all to use. DO NOT ALLOW THIS MODIFICATION TO OCCUR!

Pablo Evans, owner

619-477-4787

Martin Reeder

From: Magda Vera <magdavera74@yahoo.com>
Sent: Thursday, July 14, 2022 12:30 PM
To: Planning
Subject: Type 41 license for 8th Street Marketplace

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Mr. Vergara,

I'm a resident at Bay View Tower on 801 National City Blvd in this city. You're receiving this email in response to the letter saying the market mentioned above has a proposal to change its CUP.

I would like to express my disagreement about it. Having loud music, crazy drivers, and extra noise on Friday night until 10, it's a kind tolerable. It would not be until 1:00 a.m.

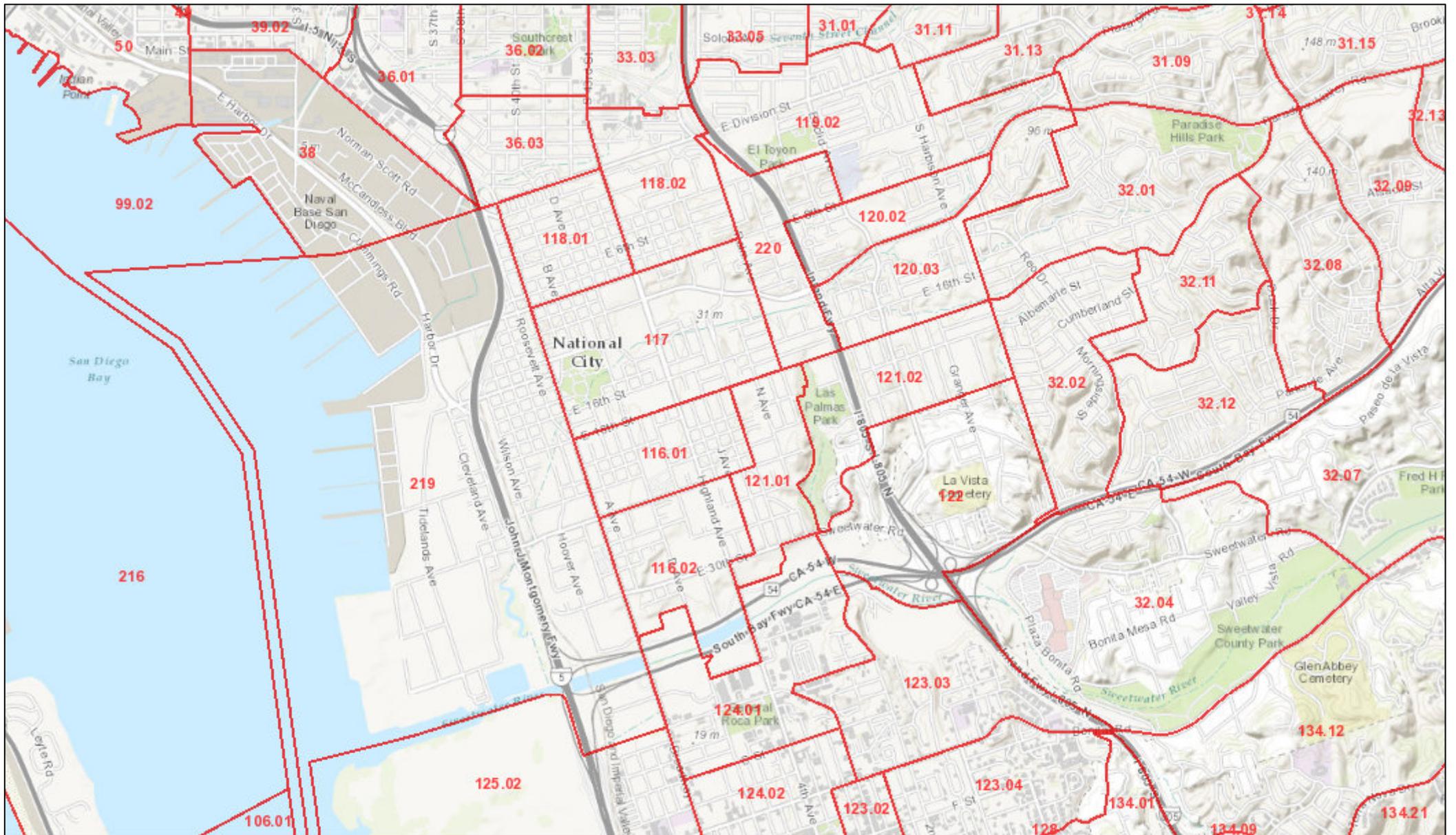
Please, consider my personal point of view.

Best regards,

A resident of

801 National City Blvd

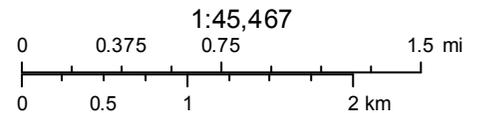
Sent from my iPhone



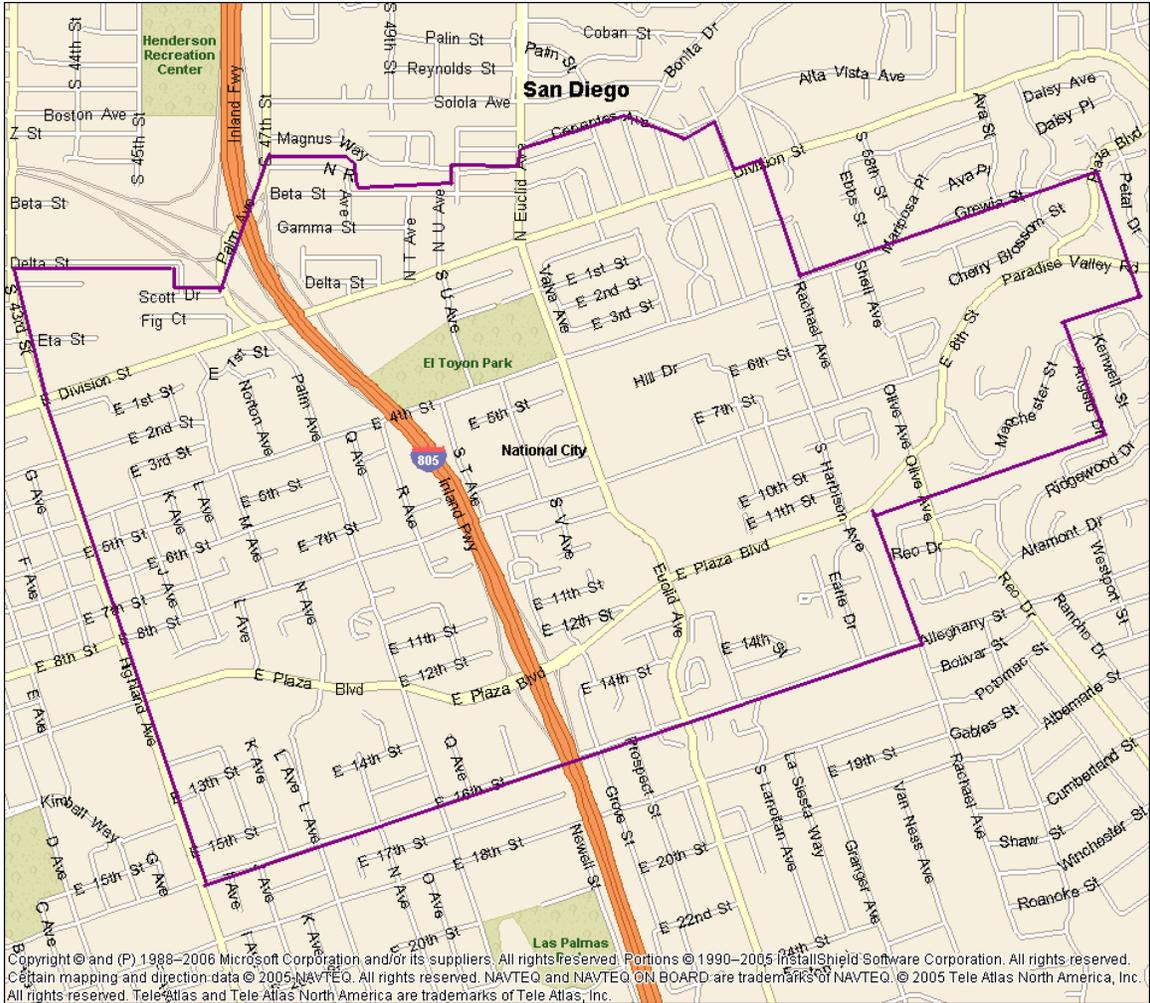
August 25, 2014

Census Tracts 2010

ATTACHMENT 9



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



City of National City Beat 21

VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- Mostly commercial businesses (1 pt)
- Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk (12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts)
Total Points _____

VIII. Owner(s) records check

- No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: _____ DOB: _____

OWNER ADDRESS: _____

OWNER NAME: _____ DOB: _____

OWNER ADDRESS: _____

Recommendation:

Completed by: _____ Badge ID: _____



COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF EXEMPTION

TO: Assessor/Recorder/County Clerk
Attn: Fish and Wildlife Notices
1600 Pacific Highway, Suite 260
San Diego, CA 92101
MS: A-33

Project Title: 2022-18 CUP

Project Location: 41 East 8th Street, National City, CA 91950

Contact Person: Martin Reeder

Telephone Number: (619) 336-4313

Description of Nature, Purpose and Beneficiaries of Project:

Conditional Use Permit Modification for live entertainment and modified hours of alcohol sales at an existing public market (Market on 8th) located at 41 East 8th Street.

Applicant:

8th Street Marketplace LLC
c/o: Joel Tubao
41 East 8th Street
National City, CA 91950

Telephone Number:

(619) 306-8193

Exempt Status:

Categorical Exemption. Class 1 Section 15301 (Existing Facilities)

Reasons why project is exempt:

The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as the current uses and the density of which were analyzed as part of the Downtown Specific Plan.

Date:

MARTIN REEDER, AICP
Planning Manager

RESOLUTION NO. 2022-16

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION
OF LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION AT AN
EXISTING PUBLIC MARKET (MARKET ON 8TH) LOCATED AT 41 EAST 8TH STREET.
CASE FILE NO. 2022-18 CUP
APN: 556-331-26

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit Modification for the addition of live entertainment and modified hours of operation at an existing public market (Market on 8th) located at 41 East 8th Street at a duly advertised public hearing held on July 18, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-18 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because alcohol sales and live entertainment are allowable within Development Zone 4 of the Downtown Specific Plan, pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan. A restaurant accessory beer sales is also a use that is consistent with Development Zone 4 of the Downtown Specific Plan, which allows such uses.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity,

because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed use is existing and is accessory to the restaurant and public market, which is located in an existing commercial area. The building is existing and has ten on-street parking spaces adjacent to the property, as well as access to several nearby parking areas. Live entertainment would occur within the existing building.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the sale and consumption of beer and wine would continue to be a small part of the overall public market use, with the alcohol serving area only 10% of the total floor area of the whole property. Alcohol consumption would be monitored by staff of the public market. In addition, the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available. Furthermore, live entertainment will be limited to appropriate hours and to maximum noise standards to avoid impacts to nearby residential uses.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as the current uses and the density of which were analyzed as part of the Downtown Specific Plan.
7. That the proposed use is deemed essential and desirable to the public convenience or necessity, because alcohol sales have contributed to the viability of the public market, an allowed use in Development Zone 4 of the Downtown Specific Plan. The existing tasting room has been a draw for area and non-area residents alike and has further activated the downtown core, consistent with the spirit and intent of the Downtown Specific Plan. The addition of live entertainment is expected to add to the success of the market and the enjoyment of its patrons.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the extension of alcohol sales hours (as stated in Condition No. 7 below), the addition of live entertainment (subject to the hours stated in Condition No. 9 below), a mobile bar in the back patio, off-site alcohol sales (subject to the hours stated in Condition No. 8 below), and consumption of alcohol in the front patio at an existing public market located at 41 East 8th Street. Any plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-18 CUP, dated 4/7/2022.
2. Unless specifically modified by this resolution, all Conditions of Approval of City Council Resolution 2016-122 shall remain in full force and effect.
3. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

7. No change in alcohol sales and consumption practices shall be permitted without receiving a Type 41 license from the California Department of Alcoholic Beverage Control (ABC).
8. The Type 41 ABC license shall not be considered in effect until the Type 23 ABC license has been surrendered or transferred to a different location.
9. The sale of alcoholic beverages for on-site consumption shall only be permitted between the hours of 6:00 a.m. and 1:00 a.m. daily.
10. The sale of alcoholic beverages for off-site consumption shall only be permitted between the hours of 12:00 p.m. and 10:00 p.m. daily.
11. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
12. No sale of wine shall be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
13. Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
14. Live entertainment shall be conducted as an accessory use to the public market for the enjoyment of its patrons. No concerts or specific live entertainment events shall be permitted.
15. Live entertainment shall be permitted between the hours of 8:00 a.m. and 1:00 a.m.
16. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
17. All entry and exit doors, including windows, shall remain closed after 9:00 p.m. during inside live entertainment activities.
18. Speakers located on the patio along 'A' Avenue shall be turned off no later than 9:00 p.m. daily
19. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

20. The permittee shall comply with all applicable laws, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that the applicant has requested the waiver of Condition 11 of this Resolution, which is a policy condition of City Council Policy 707; and

BE IT FURTHER RESOLVED that only the City Council may waive a policy condition at a public hearing; and

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council in order to conduct said public hearing; and

BE IT FINALLY RESOLVED that this Resolution shall become effective on the day following the Planning Commission public hearing, after which the matter will be set for an additional public hearing at the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON

RESOLUTION NO. 2022-16

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
DENYING A CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION OF
LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION AT AN EXISTING
PUBLIC MARKET (MARKET ON 8TH) LOCATED AT 41 EAST 8TH STREET.
CASE FILE NO. 2022-18 CUP
APN: 556-331-26

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit Modification for the addition of live entertainment and modified hours of operation at an existing public market (Market on 8th) located at 41 East 8th Street at a duly advertised public hearing held on July 18, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2022-18 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following finding:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON